



Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities Thirteenth session

Summary record of the 197th meeting*

Held at the Palais des Nations, Geneva, on Wednesday, 15 April 2015, at 10 a.m.

Chairperson: Ms. Cisternas Reyes
later: Ms. Degener (Vice-Chairperson)
later: Mr. Basharu

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* No summary records were issued for the 192nd to 196th meetings.

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The meeting was called to order at 10.05 a.m.

General comments and days of general discussion

Day of general discussion on the right to education of persons with disabilities

Opening remarks and statements

1. **Mr. Moreno Garcés** (Special Envoy of the Secretary-General on Disability and Accessibility), after welcoming participants to the day of general discussion, said that article 24 of the Convention reflected the ideal that must be sought. Inclusiveness was more than a mere method; it was a way of life that had to be promoted in all corners of the world, in every household and in every classroom, even the most modest. An inclusive society, however, could be built only once all persons and organizations had been made aware of the importance and necessity of inclusiveness. The way to begin building that society was to have children with disabilities attend school with their non-disabled peers. He therefore urged those taking part in the day's discussion to turn it into a global call for inclusiveness, in education in particular. The general comment on education that was to be the ultimate outcome of the discussion was certain to contribute greatly to the development of a culture of inclusiveness.

2. **The Chairperson** said that article 24 of the Convention provided a clear outline of the standards to be achieved by States parties. It had enabled the focus of current discourse to shift from formal equality to substantive equality. The day's general discussion, for its part, would shed light on the ways of ensuring that the right of persons with disabilities to education was realized.

3. **Mr. Salama** (Director, Human Rights Treaties Division, Office of the United Nations High Commissioner for Human Rights (OHCHR)) said that he was favourably impressed by the large turnout for the day's general discussion. Such discussions were at the heart of the development of human rights law and they were held in an inclusive way, with the participation of both States and experts. The human rights treaty bodies were the centre of gravity of the community of experts on human rights; they attracted necessary input from civil society, independent experts and other persons not officially connected with the formal human rights system. The day of general discussion, open to a wide variety of participants, was thus a most welcome development. To enable States to implement human rights treaties, synergies and coordination were often as important as resources, if not more so. The Committee's decision to draft a general comment on the right to education was a very timely one, a point that was made all the more evident to him by his recent viewing of a shocking documentary on the plight of the nearly 1 million children with autism in his own country, Egypt.

4. **Ms. Devandas** (Special Rapporteur on the rights of persons with disabilities) said that as part of her mandate she would focus on promoting the active participation of persons with disabilities in all decision-making processes affecting their lives, combating poverty by such means as encouraging access to inclusive education, and promoting change in the public perception of persons with disabilities with a view to countering stigmatization and discrimination in the education system and elsewhere. In her view, those were the three challenges that required an urgent response and all of them were closely linked to the enjoyment of the right to education.

5. Considerable efforts had been made to define inclusive education in theoretical terms, but, because it was often hard to make it a reality, she believed that it was necessary to further clarify the concept and provide States and other stakeholders with practical, strategic guidance on the ways of transitioning to inclusive education. Any such guidance should state, at a minimum, that all children must receive education in mainstream schools,

with States enforcing a “no-rejection” policy; that children with disabilities must be provided with support and accommodation; that providing reasonable accommodation, while necessary, must not serve as a pretext to stop work on achieving full accessibility; that States must take measures to ensure that children with disabilities learned the skills to enable them to participate fully in education and society; that instruction must be provided in an environment conducive to learning and interaction; and that the necessary structural changes must be made.

6. Universal primary education had not been achieved, in part because persons with disabilities had not been taken fully into consideration. As part of the post-2015 development agenda, however, that omission could be remedied. Lastly, she would appreciate suggestions on how to promote the inclusive education agenda within the scope of her mandate.

7. **Mr. Singh** (Special Rapporteur on the right to education) said that implementing article 24 of the Convention posed considerable challenges to all countries. It required not only material resources but also new mentalities. The proposed general comment on the right to education should therefore take those challenges into account. Every effort must be made to enable persons with disabilities to develop their abilities to their fullest potential.

8. When reporting to the Human Rights Council in 2012, he had emphasized the measures that should be taken to improve local education systems and assure high-quality inclusive education. Appropriate teacher training, both general and more specialized, was especially important, as were government efforts to ensure that school facilities were physically accessible. States must provide access to technical and vocational education, independent human rights mechanisms should be in place and the judiciary should be willing to examine cases of alleged violations of the right to education. The proposed general comment should provide guidance in that regard.

9. **Ms. Bailey** (Committee on the Elimination of Discrimination against Women) said that, although the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities focused on two different groups, they intersected, as article 6 of the latter Convention acknowledged that women and girls with disabilities were subject to multiple discrimination. In the overall global population, the greatest axis of differentiation and inequality was the male/female divide, and the same applied to persons with disabilities. Reports indicated that the educational needs of girls with disabilities had gone largely unnoticed by those committed to promoting disability or gender equity. Other factors, including type of disability and family economic status, also determined access to educational resources.

10. Since every individual could be affected by one or more of those factors, the scope of the obligations of States parties under the two Conventions was best analysed within the framework of intersectionality. Although article 6 of the Convention on the Rights of the Persons with Disabilities mentioned the related concept of multiple discrimination, the proposed general comment on the right to education would have to treat it more fully. It should also emphasize the need for data with which to assess the status of children living with disabilities, broken down by sex, type of impairment, age and location. The reference to disaggregation in article 31 was too vague.

11. Discrimination and inequality in education were best suited to a three-dimensional analysis. For that reason, the proposed general comment should go beyond the mere question of access to and inclusion in the mainstream education system; it should also address the specific needs of persons with disabilities in the mainstream school system — their rights within education — and the opportunities that their education afforded them, or what might be termed their rights through education.

12. **Mr. Cardona** (Committee on the Rights of the Child) said that the Committee on the Rights of the Child, which, like other treaty bodies, covered issues relating to inclusive education, had identified several obstacles to ensuring the exercise of the right to inclusive education. They included the failure to understand the difference between inclusive education and integration; the lack of awareness of the diversity of disabilities; the shortage of resources; the tendency to allow parents to opt for segregated education; and the pressure that States were under to score well on the Programme for International Student Assessment (PISA), which led to considerable amounts of testing and the tracking of students into separate education systems at a very young age. It was his hope that the day's discussion would make it possible to provide States with guidance on how to ensure that all children could exercise their right to an inclusive education.

Interactive panel on inclusive and quality education systems in law and policies

13. **Ms. Degener** (Vice-Chairperson) took the Chair.

14. **Ms. Farah** (Inclusion International, Middle East and North Africa) said that, when she went to school with her two brothers, in Lebanon, she had been made to leave her Arabic class because she had an intellectual disability. As a result, she had studied only French and English. Students with disabilities had been required by law to attend special schools, but as the security situation had improved Lebanese NGOs had ultimately begun working with international partners, including the World Bank, to promote inclusive education. She herself had been a member of one of those NGOs. Optimism had abounded, and she and her fellow NGO members had begun working with the Ministry of Education, teachers, schools, parents and the community as a whole. As a result, the Ministry of Education had begun training teachers appropriately, more public schools had opened their doors to students with disabilities and official examinations had been reworked to meet the needs of all students. Perhaps more importantly, high-quality education had been made available to all, and people with intellectual disabilities had begun to emerge from the shadows. Progress had been short-lived, however. Persons with intellectual disabilities had been among the worst affected by the renewed instability and insecurity in Lebanon. No attempt had yet been made to build an inclusive education system, owing to budget constraints and other competing national priorities. She therefore called for greater awareness of the situation of persons with disabilities, particularly refugees with disabilities, in "humanitarian" safe zones and conflict zones and urged all stakeholders to take a rights-based approach to the education of children with disabilities.

15. **Ms. Diamond** (Chair, International Disability Alliance (IDA)) said that inclusive education should respond to the diverse needs of all learners in a variety of environments, including rural and remote areas and humanitarian and conflict zones. Legislation recognizing the right to inclusive education should be established with immediate effect in all countries and should provide for non-discrimination and reasonable accommodation for all students with disabilities. Policy guidance should also be made available to States parties in order to strengthen their overall progress towards developing inclusive education systems and mainstreaming disability in national policies. Awareness-raising and training at the local, regional and national levels should accompany the introduction of legislative provisions for inclusive education, and legal remedies should be made available for children and persons with disabilities whose requests for reasonable accommodation or inclusion in mainstream education had not been met. Moreover, general and individual support measures for children with disabilities should be offered, including the provision of assistive technologies and devices and alternative modes of communication such as Braille and sign language. Comprehensive general accessibility action plans as well as more specific plans focused on education should also be developed in order to guarantee the accessibility of national education systems. Furthermore, training in inclusive education should be mandatory and form an integral part of the teacher-training curriculum in universities to ensure that the values and principles of inclusive education were introduced at the beginning of a teacher's career. More teachers with disabilities should also be trained

and included in mainstream schools, so that children with disabilities had access to adult role models with whom they could more easily identify.

16. State funding played a determining role in the implementation and success of national inclusive education systems. States parties should actively promote a holistic approach to inclusive education based on the engagement and commitment of ministries and local authorities and ensure that resources allocated to special schools were reinvested in inclusive, mainstream education. They should also strengthen disaggregated data collection, so that the policy and funding measures required for inclusive education could be taken at all levels of government. In particular, cross-cutting and targeted objectives and initiatives should be devised involving all national stakeholders in order to measure outcomes and progress more accurately.

17. **Mr. Testot-Ferry** (United Nations Children's Fund (UNICEF)) said that inclusive education should be based on equal access to a rights-based, high-quality education for all students, firm commitments by Governments in the form of legal reforms, policies and training, and the provision of adequate structures that established the entitlement of every child to education. Implementation difficulties, however, remained the main obstacle to developing fully inclusive education systems in many States. UNICEF, in partnership with the Washington Group on Disability Statistics and the World Health Organization (WHO), had therefore begun to work with Governments to revise, reform and devise new methodologies and tools for improved disaggregated data collection and analysis. It had also conducted awareness-raising sessions for teachers and education professionals in order to raise their awareness of the Convention and encourage them to advocate the increased participation of students with disabilities in education.

18. **Ms. Blanco Guijarro** (Organization of Ibero-American States for Education, Science and Culture) said that there were a number of barriers hindering the access of persons with disabilities to education in Latin America, namely the absence of disaggregated data on which to base education policy, an inadequate level of high-quality and inclusive education for persons with disabilities at all stages of education, a lack of awareness and inadequate implementation of national legislation on discrimination and inclusive education, discriminatory enrolment and teaching practices in mainstream schools, discrepancies in the quality of education and a lack of standardized tests or publishing of school results. More effort must therefore be made to enrol children with disabilities in mainstream schools in the same fashion as other students, to adopt common curricula that responded to the specific needs of children with disabilities and to promote the importance of every student's development, including that of those with disabilities.

19. **Mr. Singh Kohli** (Self-advocate) said that building a successful inclusive education system required a rights-based rather than a charity-based approach to education and the engagement and commitment of teachers, parents and the wider community. More effort must be made to monitor the practical implementation of article 24 of the Convention and to change societal attitudes towards persons with disabilities. Students with disabilities should be taught and assessed in a manner that best corresponded to their needs, and parents of children with disabilities should be encouraged to ignore negative public discourse regarding disability and strive for their child's full inclusion in society. Lastly, he stressed the importance of school-based nutrition programmes for the successful participation of children with disabilities in school.

20. **The Chairperson** invited comments from the floor.

21. **Mr. Nopakun** (Thailand) said that inclusive education systems that respected diversity could help to eradicate the misconceptions and prejudices responsible for discrimination against persons with disabilities and their segregation within society. Inclusive education should not be viewed as a discrete issue and more attention should be paid to the link between inclusive education and the subsequent stage of independent living in the community. Upon completion of their studies, persons with disabilities must be able

to obtain access to dignified and suitable jobs matching their educational qualifications so that they had the opportunity to earn a living and fully enjoy their human rights. In that regard, he wished to know what steps States parties should take to ensure the inclusion of persons with disabilities in mainstream education at all levels, particularly in the light of certain schools' unwillingness to accept students with disabilities.

22. **Mr. Hoem** (Norway) said that it was important to increase investment in assistive technologies and alternative modes of communication for students with disabilities in mainstream education. Efforts must also be made to raise awareness of the right of persons with disabilities to inclusive education and to strengthen disaggregated data collection so that more effective national education policies could be introduced. The Norwegian education system and international development cooperation was based on the principles of inclusion and accessibility for persons with disabilities and his Government had doubled its international development budget for education between 2014 and 2018.

23. **Ms. Espinosa Garcés** (Ecuador) said that the opinions of children with disabilities should be taken into account when States designed high-quality, inclusive national education systems. National legislation should reflect the need for a tailored inclusive education system capable of responding effectively to the specific needs of every student. In that context, she asked for guidance on how best to design and implement inclusive education policies at the university level, where enrolment tended to be selective and sometimes discriminatory.

24. **Ms. Ramón Torres** (Mexico) said that the main challenge Mexico faced was guaranteeing free, inclusive education for persons with disabilities on an equal footing with other persons. She hoped that the panel members could help to identify measures Governments could use to gradually shift their resources from special education systems to inclusive education systems.

25. **Ms. Gobbi** (Argentina) said that Argentina had made significant progress in the field of inclusive education since 2003. Her Government believed that inclusive education was the way forward. According to the 2012 census, 13 per cent of the population had some form of impairment. Of those, 5 per cent were school-age children. A new law on education adopted in 2006 guaranteed access to inclusive education for vulnerable population groups. She wished to hear the panel members' views on how private education systems could also be made inclusive.

26. **Ms. Pereira Farina** (Paraguay) said that, in the past, discriminatory mechanisms had existed within the Paraguayan education system. In December 2014, a law had been adopted to overhaul those mechanisms and establish inclusive education models in both public and private schools. The law included provisions on a bilingual education programme, universal preschool education, scholarships and education programmes in poor and rural areas. She asked the panel members to share best practices that could ensure that children with disabilities were properly prepared for the new inclusive education model.

27. **Ms. Karimova** (Tajikistan) said that her Government was making efforts to ensure a barrier-free environment for persons with disabilities and that a number of laws and regulations had been adopted in that regard. For example, construction companies were required to take into account the interests of persons with disabilities in their building projects. The Government recognized, however, that there was further progress to be made in the implementation of those laws. In 2013, a working group had been established to, inter alia, carry out awareness-raising campaigns on the issue of disability and consider ratification of the Convention.

28. **Ms. Minkowitz** (World Network of Users and Survivors of Psychiatry) said that appropriate support provided at an early stage without medicalizing children's needs could help them to avoid challenges later on that might be labelled as psychosocial disabilities.

Teachers should help children to address issues they faced, such as sexual abuse and problems in the family. Teachers and school systems must not screen children for psychosocial disability or impose conditions on the right to education, such as a requirement to take psychiatric drugs in order to attend school. Teachers and parents should not use law enforcement or criminal justice systems to enforce children's compliance with minor norms of good behaviour or to enforce stereotypical gender norms. Teachers and school systems needed to decriminalize and de-medicalize childhood and develop conflict resolution measures that were based on paradigms such as restorative justice, so as to avoid the exclusion of children labelled as having psychosocial disabilities.

29. **Mr. Jokinen** (European Union of the Deaf and World Federation of the Deaf) requested the delegation to clarify the meaning of the terms "integrated environments" or "mainstream settings" as opposed to "inclusive education". He asked whether he was correct in thinking that mainstreaming was not the same thing as inclusive education. Many system-wide changes were needed to implement inclusive education, which required merging current general and special education systems into a single system.

30. **Mr. Testot-Ferry** (United Nations Children's Fund) said that progress had been made in some European and Central Asian countries with regard to overcoming barriers to inclusive education, including social norms. A national campaign conducted in Montenegro, for example, had changed the way children with disabilities were viewed by their parents and peers. Other countries had worked to reduce the institutionalization of children by introducing reforms and tracking the number of children placed in institutions. Increased collaboration had also been seen among professionals in the education, health and social services sectors. More modest progress had been made in reforming data collection systems to make data on children with disabilities more widely available.

31. **The Chairperson** thanked the participants for their contributions to the panel discussion and said that she was heartened to hear repeated affirmations that inclusive education was about human rights rather than charity and that persons with disabilities were right holders rather than burdens on society.

Interactive panel on non-exclusion on the basis of disability, reasonable accommodation and access to inclusive education systems

32. **Mr. Basharu** took the Chair.

33. **Ms. Richler** (Inclusion International) said that, by creating schools for their children with intellectual disabilities who were excluded from education, parents had learned that their children were capable of learning, whereas separate education prepared them for a life of segregation. Exclusion from regular education was an infringement of the right to participate fully in the community. Inclusive education was better for all students because it taught them to value diversity and laid the foundation for inclusive communities. A whole-school approach that respected different forms of intelligence, practised differentiated instruction and fostered collaboration would improve the quality of education for all students.

34. While inclusion required some reasonable accommodation, a broader view of inclusion was needed, so as not to miss the key opportunity for a radical transformation of education systems. All too often, large amounts of money were spent on supporting a few students in special programmes rather than making the system better for all. Governments must commit themselves to phasing out segregated systems and invest in transformation that would support inclusion. The Committee should clearly state in the proposed general comment that the Convention required a transformation of education systems to make schools inclusive and provide better education for all. It was crucial that investments in international cooperation should support the development of inclusive rather than

segregated systems. Inclusion should begin at an early age. Support for inclusive education was growing, as more people realized that supporting special systems only served to deprive the regular education system of the resources needed to provide quality inclusion. More than any other article of the Convention, article 24 had the power to shape the future citizens of the world and create societies that would live up to the aspirations of the drafters of the Convention.

35. **Mr. Jokinen** (European Union of the Deaf and World Federation of the Deaf) said that deaf persons were subject to exclusion both because of their disability and because they belonged to a linguistic and cultural minority. They should be protected from both forms of exclusion. Education should be inclusive not just for persons with disabilities but for persons from all kinds of diverse backgrounds. There were a few examples of education models in which the hearing children of deaf parents, whose native language was sign language, were educated together with deaf students and with other hearing students who were interested in receiving their education in sign language. Multilingual and multicultural education required diversity among teachers as well as students. For deaf students, a barrier-free environment meant having access to a bilingual learning environment. Such environments had been created in certain schools in Belgium and in Hong Kong.

36. The deaf community had never advocated special education. Rather, it advocated bilingual, bicultural education, which could be a part of inclusive education. Governments should allocate sufficient resources to create bilingual and bicultural learning environments for deaf students. In some Nordic countries, governments and associations of the deaf had been conducting joint development cooperation projects in the global South for the past 30 years to build capacity and promote the use of sign language in education. Further cooperation of that sort was needed between deaf organizations and governments to implement inclusive education.

37. **Ms. Jongerius** (Self-advocate) said that it was important for persons with disabilities to be given extra time to finish their school courses and for courses to be adapted to students' individual needs. It was also important for schools to consider opportunities for students to participate in society, especially in the world of work, and to ensure that the education provided helped to achieve that. It was important for schools to offer an appropriate mix of both theory and practice. Students with intellectual disabilities did not want to learn just from books; they also wanted to learn by doing. Lastly, it was very important that students with disabilities should feel welcome in school. Persons with intellectual disabilities often encountered negative attitudes and felt that they did not belong, which could lead to their cutting classes, dropping out or being referred to a special school.

38. **Ms. Sandvoort** (Self-advocate) said that persons with intellectual disabilities should not be excluded from education on the grounds of their need for additional support and adaptation. It was important for schools to offer extra time and extra lessons in subjects that might be difficult for students with disabilities. Teachers should be better trained in methods for teaching persons with intellectual disabilities. Persons with intellectual disabilities were often bullied at school and told they were stupid because they did not learn as quickly as other students.

39. **Mr. Operti** (United Nations Educational, Scientific and Cultural Organization (UNESCO)) said that he wished to address some of the key challenges regarding inclusive education. The first challenge was to overcome the lack of synergy between four main approaches to the debate on inclusive education, namely inclusive education as a human right and public good; inclusive education as a way of meeting the particular needs of special groups; inclusive education as a response to marginalization and poverty; and inclusive education as a transformation of the education system. Secondly, inclusion continued to be viewed through a lens of normality versus abnormality, with the focus on adjusting supposedly "normal" curricula to meet the needs of abnormal students. Diversity,

which was often seen as a barrier to children's education, should instead be leveraged as a democratizing factor in education. Thirdly, there was a need to move away from individualized curricula and towards a common curriculum that was accessible to all students. All children were special; thus, the use of words like "special" to describe certain children only confused matters and created further separation. Fourthly, there was a need to address the widespread fear in society about inclusive education and the lack of understanding of the benefits and added value it provided. Many people feared that their children's education would be jeopardized by an inclusive education model.

40. Current cultures, mindsets, policies and practices were rooted in a dichotomy between able and disabled persons, when what was needed instead was a holistic, harmonized view of education. The great challenge in education systems was to give every individual child the opportunity to learn. That should be achieved through universal policies, while showing sufficient flexibility to allow for diversity.

The meeting rose at 1.05 p.m.